

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-123-S - ORDER NO. 2002-354  
MAY 3, 2002

IN RE: Thomas Vaeth,	)	ORDER
	)	DISMISSING
Complainant,	)	COMPLAINT
	)	
vs.	)	
	)	
River Pines Water System, Inc.,	)	
	)	
Respondent.	)	

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (the Commission) on the complaint of Thomas Vaeth (Vaeth or the Complainant) versus River Pines Water System, Inc. (River Pines, the Company or the Respondent). The substance of Vaeth's complaint is that on October 1, 2000, the sewer system operated by River Pines backed up and pumped approximately 3,000 + gallons of raw sewage into the lower level of his home. Vaeth asserts that a grease clog caused the back up, and that River Pines should have prevented the problem before it caused damage to his home. After service of the Complaint upon River Pines, the Company answered the complaint, denying liability for any damages that may have been suffered by Vaeth. Vaeth subsequently requested a formal hearing on his complaint, which we granted.

The hearing was held on March 20, 2002 at 2:30 PM in the offices of the Commission, with the Honorable H. Clay Carruth, Vice-Chairman, presiding. The

Complainant was represented by Matthew R. Niemiec, Esquire. River Pines was represented by Louis H. Lang, Esquire. The Commission Staff was represented by F. David Butler, General Counsel.

The Complainant presented his own testimony, as well as the testimony of Scott Winchell and David Angel. River Pines presented the testimony of James D. Hix and D. Reece Williams. The Commission Staff presented the testimony of William O. Richardson.

## **II. SUMMARY OF TESTIMONY**

The Complainant Thomas Vaeth testified on his own behalf. Vaeth moved into his home in January, 1991, and, excluding the subject matter occurrence, has never experienced any major plumbing problems or difficulties at his home. Vaeth's home is the closest one in his neighborhood to the facilities, including the tanks, of River Pines. Vaeth testified that on October 1, 2000, his daughter noticed a substantial discharge of sewage/wastewater entering his home at its lowest level through a toilet. The discharge then began flowing from the drain in a tub. Vaeth described the material as untreated sewage/wastewater, which was brackish, brown in color, and which contained solid waste and paper products. The Complainant stated that he attempted to bail the sewage out of his home. The backflow lasted for some one and one-half hours. Vaeth noted that untreated sewage stayed on the floor of his home for about eleven hours. Vaeth estimated that 2,700 to 3,000 gallons of raw, untreated sewage were deposited into his home. Vaeth stated his belief that River Pines and its agents have failed to properly maintain its facilities and that this failure led to the events described above. The Complainant states

that his two primary concerns are, first, that there are no more difficulties with the sewer again in the future, and, second, that he received compensation for his damages, although he states that he is not seeking damages from this Commission. Vaeth also requests that we determine whether any rules, statutes, regulations, and/or trade practices were violated on and before October 1, 2000, and if these are currently being disregarded.

Vaeth also described his observation and participation in the activities of Scott Winchell, the Roto-Rooter technician that came to his home on the day of the incident. Winchell expressed the belief that a grease clog was present in the line.

Scott Winchell testified, and essentially affirmed Vaeth's rendition of the occurrence of October 1, 2000. Winchell stated that the manhole in front of Vaeth's home was full of water, as was the manhole nearest the treatment plant. Winchell and Vaeth obtained access to the holding lagoon, and Winchell used a high pressure jetter to locate and break up any clogs that might have been present. Winchell testified that he did encounter what he believed to be a grease clog. Winchell broke up the clog and ran the jetter throughout the entire line.

Winchell noted that grease clogs are very common. Breaking up clogs is apparently a mainstay of the Roto-Rooter business. Winchell also testified that he had never been called before to work on any problems with the sewer system operated by River Pines. Lastly, Winchell stated that grease clogs cannot be prevented, but can be treated before they get too big.

David Angel, an insurance agent, also testified. Angel stated that he saw a crack in the back of the sewage treatment plant, and noticed that the holding lagoons were filled

to the brim and over flowing. This was communicated to Mr. Hix. Angel expressed the opinion that Vaeth handled the emergency, not River Pines, and that Vaeth had been working hard to resolve the matter with Mr. Hix and River Pines.

River Pines presented the testimony of two witnesses, James D. Hix and D. Reece Williams. James D. Hix, the former owner of River Pines stated his belief that River Pines is not responsible for any damages that Vaeth may have suffered. Hix noted that, prior to this incident, he had not received any complaints from Vaeth in regard to his sewer system. Second, a Department of Health and Environmental Control (DHEC) licensed operator operates the system. River Pines has never been the subject of any enforcement proceedings initiated by DHEC. DHEC, according to Hix conducted regular reviews of the system and any deficiencies were immediately corrected. Hix noted that River Pines was always maintained properly, with regular inspections being made. Hix pointed out that no sewer system owner or operator has control over what their customers introduce into the sewer system. Hix stated that he did not know what caused the clog in the sewer line described by Vaeth. He said Winchell's description of a grease clog was reasonable, but the cause of the problem could have been something else. Hix also noted that he did not receive any complaints around the time frame of this incident to lead him to believe a clog was imminent, or likely to occur. Hix stated that he is unaware of any violations of either DHEC or this Commission's regulations at the time of this incident. Hix stated that he regrets the fact that the incident occurred, but that nothing River Pines did or failed to do caused or contributed to this incident.

On cross-examination, Hix noted that there are a number of potential causes of a clog, such as people pouring grease down the line, people throwing their underwear down the line, throwing Dixie Cups into the line, and other causes, and that he has no control over such actions whatsoever. Hix also stated that River Pines had a preventative maintenance program in place run by J.G. Environmental. This company cleans the sewer plant, checks the sewer lines and aerators, and checks the discharge.

Reece Williams, present owner of the Company also testified. Williams testified that he and Hix inspected the system on the day of the incident, and did not find any problems. Further, Williams stated that every sewer system is subject to grease clogs and other types of clogs, and that the operator of a system has no control over what individual customers introduce into the sewer system. Occasionally, there will be clogs in all sewer systems, and that they are not absolutely preventable. Williams also noted, *inter alia*, that he had inspected the sewer system both before and after the incident and found it to be well maintained. Further, Williams has not observed a rotted back wall of the plant wherein untreated wastewater was flowing into a creek, as was described by Vaeth.

Finally, William O. Richardson of the Commission's Utilities Department testified. Richardson noted that River Pines has 109 water customers and 104 sewer customers in the Woodforest subdivision. The only complaint that Staff has received on the River Pines system is the subject of the present proceeding. Richardson visited the wastewater treatment plant on January 11, 2002 to perform an onsite inspection of the treatment facility. The wastewater treatment plant was in compliance with Commission regulations at the time of the visit. Richardson did note that DHEC's NPDES Compliance

Evaluation Inspection of September 25, 2000 showed that the Company was not meeting NPDES permit limits for flow. The operator had no explanation as to why flow was recorded at 43,000 gallons per day, when the plant is permitted for 39,000 gallons per day.

Richardson did testify that Vaeth should install a backflow preventer in his home to prevent a similar incident from occurring in the future.

### **III. MOTIONS**

Two motions were made during the course of hearing in this matter by River Pines which must be considered and ruled upon by this Commission. First, River Pines, through its attorney moved to strike the testimony of the Complainant's witness David Angel. River Pines argued that Angel's testimony was irrelevant to the matter at hand. Vaeth argued that Angel had seen the site in question, and had done a lot of investigations involving plumbing problems. We deny the Motion to Strike Angel's testimony. Angel presented testimony regarding his observations of Vaeth's home and the sewage treatment plant. This Commission will allow it, and give whatever weight we deem appropriate to the testimony in our deliberations on this matter. Second, River Pines moved for a directed verdict at the end of the Complainant's case. We deny the Motion. Motions for directed verdicts are only appropriate in jury trials. Additionally, the Complainant sought, *inter alia*, a formal and thorough investigation by this Commission of River Pines' sewer treatment plant. At the close of the Complainant's case, the Commission had not yet heard testimony regarding the Commission Staff's investigation

of the River Pines' sewage treatment plant. For both of these reasons, the Motion for Directed Verdict is denied.

**IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Thomas Vaeth is a resident of the Woodforest Subdivision in York County, South Carolina.
2. Other than the incident in the case at bar, Vaeth has never experienced any major plumbing problems or plumbing difficulties at his residence.
3. On October 1, 2000, Vaeth's residence was flooded with some 3,000 gallons of raw untreated sewage.
4. The incident was caused by a grease clog in the sewer line.
5. Vaeth is not seeking damages from this Commission as the result of this incident.
6. Grease clogs are not always preventable, but may develop after residents pour grease, deposit underwear, or throw Dixie Cups into the line, or for other reasons. Operators of sewage treatment plants have no control over the addition of foreign materials into their systems by customers.
7. Grease clogs are difficult to detect in sewer lines.
8. Hix had no complaints around the time of the incident herein that would have informed him of the possible formation of a grease clog.
9. River Pines had a preventative maintenance program in place at the time of the incident, run by J.G. Environmental. This Company cleans the sewer plant, checks the lines and aerators, and checks the discharge.

10. No complaints against the Company have been received by this Commission, except for the one in the case at bar.

11. The wastewater treatment plant was in compliance with Commission regulations at the time of Staff's visit. No causal connection was established by the Complainant between the excessive flow observed by DHEC on September 25, 2000 and the flooding of the Complainant's home with wastewater.

12. River Pines is not responsible for the flooding of the Vaeth home with wastewater.

13. River Pines did not violate any Commission regulations on or before October 1, 2000 in connection with this incident, nor have violations of the Commission's regulations been observed since that time.

14. A backflow preventer installed in the Vaeth home will prevent a similar incident to that seen in this case from occurring in the future.

15. The Motion to Strike and Motion for Directed Verdict are denied.

16. If other documents or materials with regard to this matter are still being sought by the Complainant, the Complainant may contact the Commission Staff and request any specific information that is desired.

17. The Complaint is dismissed.

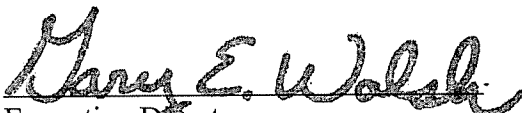


This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)